THE HON'BLE MS JUSTICE G.ROHINI

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WRIT PETITION NO: 6827 of 2005

Dated: 03-03-2006

Between:

P.Shankaraiah

..... PETITIONER

AND

The Chief Executive Officer,

A.P.State Wakf Board, Hyderabad and another.

.....RESPONDENTS

THE HON'BLE MS JUSTICE G.ROHINI

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WRIT PETITION NO : 6827 of 2005

O R D E R:

The first respondent-A.P. State Wakf Board issued a notice dated 10-03-2005 proposing to conduct public auction in respect of right to collect human hair at Dargah Hazrat Mohiddin Sha situated at Janpahad village, Nereducherla Mandal, Nalgonda District, for the year
2005-2006. The period of licence was from 01-04-2005 to
31-03-2006. It is not in dispute that the auction was conducted on 21-03-2005 and the petitioner offered a sum of Rs.9,52,000/- which was the highest bid. In pursuance thereof, the petitioner deposited a sum of Rs.4,00,000/- towards 1% of the bid amount, however the first respondent did not receive the balance amount from him without assigning any reason and did not grant lease in his favour. Hence, this writ petition seeking a writ of Mandamus declaring the action of the respondents in not receiving the balance bid amount of Rs.5,61,500/- and not giving the work order to the petitioner as arbitrary and illegal.

On behalf of the respondents, the first respondent- Chief Executive Officer filed a counter affidavit in which the fact that the offer made by the petitioner was the highest has not been disputed. However, it is stated that the next highest bidder made representations stating that it is a registered
Co-operative Society consisting of nearly 40 barber (nayee) families and that the 40 families are entirely depending upon the earnings from the saloon work they undertake, and considering these aspects on humanitarian grounds and also that it involves the livelihood of nearly 40 families, and after having been satisfied that *prim facie* it is a fit case to allot the contract to the next highest bidder i.e. Nayee Brahmin
Co-operative Society, Janpad, the contract was allotted to the said Co-operative society even though the bid quoted by the society is less than the bid quoted by the highest bidder (petitioner herein) and the difference is only a sum of Rs.1,000/-. It is further stated that the said society has also made a representation that they are prepared to pay Rs.9,53,000/- towards the contract for the year 2005-2006 in respect of the auction, which is Rs.1,000/- more than the bid amount offered by the petitioner, and it was found desirable to accept and allot the contract to the society. Therefore, the contract was allotted to the society for a sum of Rs.9,53,000/- and accordingly the society deposited

Rs.6,00,000/- and the balance of Rs.3,53,000/- has to be paid on or before 15-04-2005. Pursuant to the same, charge was handed over to Sri P. Nagaiah, the President of the Society on 31-03-2005 and the Society is collecting the hair.

Heard both sides and perused the material on record.

In view of what has been stated in the counter affidavit, it is clear that though the petitioner has offered highest bid, having taken into consideration the fact that the second highest bidder is a Society consisting of 40 members, the first respondent thought it fit to accept the second highest bid. Accordingly, the society was awarded the contract and it has been proceeding with the work.

The law is well settled that the highest bidder cannot claim any right for award of the contract in his favour merely on the ground that his offer was the highest. Hence, the contention of the petitioner that he being the highest bidder, the first respondent ought to have awarded the contract in his favour is without any substance and cannot be accepted. That apart the period of contract itself is going to be expired by 31-03-2006. Since the impugned auction is not in violation of any statutory provision and in the absence of allegation of any *mala fides* against the respondents, the interference by this Court is not warranted.

Accordingly, the writ petition is dismissed. However, this shall not preclude the petitioner to participate in the auction for the year 2006-2007 whenever the first respondent issues a notification for the said purpose. No costs.

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G.ROHINI,J

Dated: 03-03-2006

Note: Issue CC in three days.

B/o

Klp/ghn